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12 *Attorneys for the Official Committee of Equity Security
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13 **UNITED STATES BANKRUPTCY COURT**

14 **DISTRICT OF NEVADA**

15 In re:
 16 USA COMMERCIAL MORTGAGE COMPANY,
 17 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

18 In re:
 19 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

Chapter 11
 Jointly Administered Under
 Case No. BK-S-06-10725-LBR

20 In re:
 21 USA CAPITAL DIVERSIFIED TRUST DEED
 22 FUND, LLC,
 Debtor.

23 In re:
 24 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

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1 In re:
 2 USA SECURITIES, LLC,
 3
 4

Debtor.

**JOINT EX PARTE APPLICATION
 FOR ORDER REQUIRING MICHAEL
 ZITO TO APPEAR FOR
 EXAMINATION PURSUANT TO
 FEDERAL RULE OF BANKRUPTCY
 PROCEDURE 2004**

[No hearing required]

5 Affects:

6 All Debtors
 7 USA Commercial Mortgage Company
 USA Securities, LLC
 USA Capital Realty Advisors, LLC
 USA Capital Diversified Trust Deed Fund, LLC
 USA First Trust Deed Fund, LLC

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 11 Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the
 12 “Bankruptcy Rules”), USA Capital Diversified Trust Deed Fund, LLC (hereinafter,
 13 “Diversified”), and the Official Committee of Equity Security Holders of USA Capital
 14 Diversified Trust Deed Fund, LLC (hereafter, the “Diversified Committee”), by and through
 15 their respective counsel noted above,¹ hereby apply for an order setting the examination of
 16 Michael Zito under oath, under Bankruptcy Rule 2004, in relation to the following:

17 Acts, conduct or property of Diversified and the other debtors in the
 18 above-captioned bankruptcy cases (collectively, the “Debtors”), or to any
 19 matter which may affect the administration of the Debtors’ estates; and
 20 acts, conduct, or property of the Debtors that relate to the liabilities and
 financial condition of the Debtors, the source of any money or property
 acquired or any other matter relevant to the cases.

21 Specifically, Diversified and/or the Diversified Committee desire to examine Michael
 22 Zito concerning the obligation owed to the Debtors by BySynergy, LLC, collateral securing that
 23 obligation, the status of development of the collateral, and other liens on the collateral.

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 26 ¹ Diversified and the Diversified Committee make this Application jointly because
 27 counsel for the Diversified Committee will become counsel to the reorganized Diversified entity
 28 subsequent to the Effective Date under the Debtors’ Third Amended Chapter 11 Plan, which was
 confirmed by the Court pursuant to its order entered January 8, 2007.

Bankruptcy Rule 2004(a) provides that “[o]n motion of any party in interest, the court may order the examination of any entity.” Rule 2004 of the Local Rules of Bankruptcy Procedure (hereinafter, the “Local Rules”) provides, in pertinent part:

(b) Order for examination. Orders for examination may be signed by the clerk if the date set for examination is more than ten (10) business days from the date such motion is filed....

LR 2004(b).

As set forth above, the date for the proposed examination is more than ten (10) business days from the date of this Application. Accordingly, Diversified and the Diversified Committee respectfully request that the Clerk of the Court docket the Order Requiring Michael Zito to Appear for Examination Pursuant To Federal Rule of Bankruptcy Procedure 2004, submitted herewith.

WHEREFORE, Diversified and the Diversified Committee respectfully request that this Honorable Court enter an order requiring Michael Zito to testify under oath on the matters outlined above and requiring that Michael Zito under Rule 30(b)(6) of the Federal Rules of Civil Procedure be required to appear on February 2, 2007, at 11:00 o'clock a.m. Mountain Standard Time at the Residence Inn By Marriott, 3440 North Country Club Dr., Flagstaff, Arizona 86004.

Respectfully submitted this 10th day of January 2007.

BECKLEY SINGLETTON, CHTD.

RAY, QUINNEY & NEBEKER, P.C.

/s/ Anne M. Loraditch

/s/ Steven C. Strong

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